



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, DC 20231  
www.uspto.gov

714

Paper No. 14

Shayne X. Short, Ph. D.  
Akin, Gump, Strauss, Hauer & Feld, L.L.P.  
1900 Frost Bank Building  
816 Congress Avenue, Suite 1900  
Austin TX 78701

MAILED

JAN 2 2003

Office of the Director  
Group 3600

In re Application of:	:	DECISION ON PETITION
Kefeng Liu et al.	:	FOR SUPERVISORY REVIEW
SERIAL NO. 09/746,963	:	UNDER 37 CFR §1.181
FILED: December 21, 2000	:	
FOR: MATCHING NETWORK HYBRID	:	
ELECTROMAGNETIC CAPABILITY	:	
ABSORBER	:	

This is a decision on the petition under 37 CFR §1.181 filed November 26, 2002 requesting review of the examiner's refusal to consider the 37 CFR §1.132 affidavit after a final rejection received October 23, 2002.

The petition is **DENIED**.

The examiner had originally made a rejection under 35 U.S.C. 112-1st paragraph on March 7, 2002 and repeated the rejection in a final action on August 23, 2002. After the final rejection, applicant filed the 37 CFR §1.132 affidavit. The affidavit was indicated as not being considered by the examiner in Advisory actions mailed November 7, 2002 and November 29, 2002. Petitioner argues that the affidavit should be considered because it responded to the new examiner arguments in the 35 U.S.C. 112-1st paragraph rejection in the final action.

MPEP 716.01 sets forth the criteria for timely submission of a 37 CFR §1.132 affidavit after final rejection:

- (i) with a first reply after final rejection for the purpose of overcoming a new ground of rejection or requirement made in the final rejection
- (ii) with a satisfactory showing under 37 CFR §1.116(b) or 37 CFR §1.195
- (iii) under 37 CFR § 1.129(a).

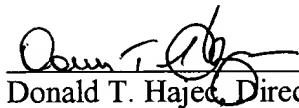
With respect to criteria (i) there was no new ground of rejection or requirement made in the final rejection. Applicant does not appear to be making a showing under criteria (ii) or (iii).

Amendments after a final rejection complying with objections and requirements as to form may be made under 37 CFR §1.116(a). Amendments after a final rejection touching on the merits of an application may be admitted under §1.116(b) upon a showing of good and sufficient reasons why they are necessary and were not earlier presented. Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues from appeal, or in some other way requires only cursory review by the examiner, compliance with the requirements of §1.116(c) is expected in all amendments after final. See MPEP §§714.12, 706.07(e), 714.13 and 1207.

No abuse of discretion has been shown by the examiner's refusal to consider the proposed 37 CFR §1.132 affidavit after a final rejection. Accordingly, the petition is DENIED.

The time period for response continues to run 3 months from the August 23, 2002 mailing date of the final rejection.

Any questions regarding this decision should be directed to Thomas H. Tarcza at (703) 306-4171.

  
Donald T. Hajec, Director  
Patent Technology Center 3600  
(703) 308-4180  
Facsimile No.: (703) 306-4598

tht/snm: 12/10/02

SM